

10369

BATTLE, FOWLER, JAFFIN, PIERCE & KHEEL

280 PARK AVENUE

NEW YORK, N.Y. 10017

HYMAN L. BATTLE, JR.  
CHARLES BURTON  
CARL B. CORDES  
MARTIN L. EDELMAN  
GERALD J. FIELDS  
DAVID FLEISCHER  
ROBERT W. GELFMAN  
THOMAS V. GLYNN  
DAVID D. GRIFFIN  
CHARLES L. JAFFIN  
MICHAEL B. JEFFERS  
THEODORE W. KHEEL  
THOMAS E. KRUGER  
JONATHAN M. LEHR  
DONALD C. MOSS  
LEONARD R. OLSEN, JR.  
EDWARD L. PECK  
SAMUEL R. PIERCE, JR.  
STEVEN A. SAIDE  
MICHAEL J. SALTZER  
PETER G. SCHMIDT  
ERIC W. SHAW

(212) 949-8300

WRITER'S DIRECT DIAL NUMBER

(212) 949-8252

GEORGE GORDON BATTLE  
(1897-1949)

LUDLOW S. FOWLER  
(1924-1961)

HERRICK K. LIDSTONE  
COUNSEL

CABLE ADDRESS  
COUNSELLOR

TELEX 127053

TELECOPIER (212) 986-5135

RECORDATION NO. 10269 Filed 1425

April 9, 1979

Date APR 09 1979

APR 9 1979 - 12 55 PM

Fee \$ 100.00

INTERSTATE COMMERCE COMMISSION

10269 ICC Washington, D. C.  
RECORDATION NO. 10269 Filed 1425

Secretary of the Interstate  
Commerce Commission  
Washington, D.C. INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 10269 Filed 1425  
APR 9 1979 - 12 55 PM

Re: Box Cars Nos. 4000-4049

APR 9 1979 - 12 55 PM

INTERSTATE COMMERCE COMMISSION

Dear Sir:

INTERSTATE COMMERCE COMMISSION

Enclosed for recordation in the order listed below pursuant to 49 U.S.C. 11303 please find the original and three counterparts of each of the following documents:

1. Letter (Purchase Order Assignment) dated as of April 6, 1979, from Rex Railways, Inc., a Delaware corporation (Rex) to McDonnell Douglas Finance Corporation (MDFC), pursuant to which Rex assigns to MDFC certain rights under a purchase order with Pullman Standard Division of Pullman, Incorporated relating to the captioned Box Cars.

2. Lease Agreement (Lease Agreement) dated as of October 12, 1978, between Rex as lessor, and the Lamoille Valley Railroad Company, the railroad which will lease the Box Cars (Lessee).

3. Assignment of Lease (Lease Assignment) dated as of April 6, 1979, from Rex to MDFC, pursuant to which Rex assigns to MDFC all the lessor's rights under the Lease Agreement, together with the Lessee's acknowledgement thereof.

4. Management Agreement (Management Agreement) dated as of April 6, 1979, between Rex and MDFC, pursuant to which Rex is retained by MDFC as its agent to perform certain management and administrative services, with respect to the captioned Box Cars.

APR 9 12 45 PM '79

RECEIVED

*Rodolfo Hernandez*  
*C. Overly*

Secretary of the Interstate  
Commerce Commission

April 9, 1979

Also enclosed is a check for \$160.00 payable to Interstate Commerce Commission in payment of the fee for recording of the Lease Agreement (\$50.00), Purchase Order Assignment (\$50.00), Assignment of Lease (\$10.00) and Management Agreement (\$50.00).

The names and addresses of the parties to the enclosed Agreements are as follows:

Rex Railways, Inc.  
616 Palisade Avenue  
Englewood Cliffs, New Jersey 07632

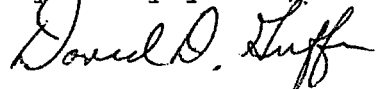
McDonnell Douglas Finance Corporation  
3855 Lakewood Boulevard  
Long Beach, California 90846

Lamoille Valley Railroad Company  
RFD #1  
Stafford Avenue  
Morrisville, New Jersey 05661

The equipment covered by the enclosed Agreements consists of 50 70-ton 50' 6" XM box cars, having A.A.R. mechanical designation "XM" and lessee identifying marks of LVRC 4000 through and including 4049. The cars will be further marked with a legend stating "Title to this Car Subject to Documents Recorded with the Interstate Commerce Commission."

Please return stamped copies of the enclosed documents to the undersigned.

Very truly yours,



David D. Griffin

DDG/ds  
Enclosures  
cc: Howard Meyers, Esq.

APR 9 1979 - 12 55 PM

## MANAGEMENT AGREEMENT INTERSTATE COMMERCE COMMISSION

THIS AGREEMENT, dated as of April 6, 1979, by and between Rex Railways, Inc., a New Jersey corporation (hereinafter called REX) and McDonnell Douglas Finance Corporation, a Delaware corporation (hereinafter called Owner).

WHEREAS, Owner will, pursuant to a letter agreement of even date (the Letter of Assignment) with REX, purchase the boxcars identified in Schedule 1 attached hereto (such boxcar or boxcars purchased by Owner being hereinafter referred to as the Cars) being manufactured and sold by the Pullman Standard Division of Pullman, Incorporated (hereinafter called the Builder) pursuant to the Purchase Order (as defined in the Letter of Assignment);

WHEREAS, REX engages in the business of managing railcars for railcar owners, and Owner desires to retain REX as agent for the purposes hereinafter described; and

WHEREAS, the Cars, upon their acceptance by the lessee hereinafter mentioned, will be subject to a Lease Agreement dated as of October 12, 1978 (the Lease), between REX, as lessor, and Lamoille Valley Railroad Company, a Vermont corporation (hereinafter called the Lessee), as lessee, and REX will assign all its rights as lessor under the Lease to Owner pursuant to an Assignment of Lease, dated as of

April 6, 1979;

NOW, THEREFORE, in consideration of the mutual promises made herein, Owner and REX, intending to be legally bound, hereby agree as follows:

1. Engagement of REX.

Owner hereby engages REX as agent of Owner to perform the management and administrative services with respect to the Cars which are described in Section 3 hereof, all on the terms and conditions set forth herein, and REX accepts such engagement and agrees to act as agent for Owner and perform in accordance with the terms and conditions hereof.

2. Term.

The term of this Agreement and the agency created hereby shall commence as of the date of this Agreement. Each Car managed by REX on Owner's behalf hereunder shall become subject to this Agreement on the date of delivery of such Car under the Lease as set forth in Paragraph 3 thereof and the term of this Agreement with respect to each such Car shall continue for a period of fifteen years thereafter unless earlier terminated as provided in Section 7; provided, however, that, except for Section 6, which shall, notwithstanding this proviso, remain in effect, this Agreement shall terminate with respect to any Car which is sold, lost or totally destroyed or withdrawn from the Lease pursuant to Section 8(e), (f) or (g) thereof as of the date that

such sale is consummated, or such Car is lost, destroyed or withdrawn from the Lease; provided further, however, that notwithstanding any termination of this Agreement with respect to any Car upon the expiration of fifteen years after the date of delivery of such Car under the Lease as set forth in Paragraph 3 thereof or upon the sale, loss, total destruction or withdrawal of any Car, REX shall continue to be obligated to assist the Owner to collect payments and other sums (including insurance benefits or lessee or railroad indemnity payments payable in connection with any damage to or loss or total destruction of a Car), and to furnish information with respect to taxes and other charges on Cars, due for or with respect to periods prior to such termination of this Agreement.

3. Duties of REX.

In consideration of the compensation to be paid to REX pursuant to Section 5 hereof, and subject to the agreement of Owner to reimburse and indemnify REX pursuant to Section 6 hereof, except as otherwise provided herein, REX shall provide and perform on behalf of Owner during the term of this Agreement such management and administrative services as are reasonably necessary to enable Owner to fulfill its obligations as the lessor under the

Lease, including without limitation the services set forth below:

(a) Upon tender of the completed Cars by the Builder for delivery under the Purchase Order, to inspect and approve such Cars, and if such Cars conform to the Specifications set forth in the Purchase Order and the Lease and to all applicable governmental regulatory specifications, to execute and deliver to the Builder an appropriate certificate of acceptance with respect to each such conforming Car, stating that the Cars have been delivered, inspected and accepted on behalf of Owner on the date indicated in such certificate; provided however that nothing contained herein or in REX's certificate of acceptance shall be deemed to impose on Owner any duty, obligation or liability not assigned to and assumed by Owner under the Letter of Assignment. Rex shall arrange for the positioning of the Cars for first loading, and shall pay any costs which are incurred in effectuating such initial positioning, without reimbursement by Owner.

(b) To negotiate or approve changes in the specifications applicable to the Cars and in the other terms and conditions of the Purchase Order including the Purchase Price of the Cars set forth therein, and to agree with the Builder with respect thereto, provided, however, that REX shall not

agree to an increase in the Purchase Price of the Units exceeding \$350 per Car without the prior consent of Owner.

(c) Procure and maintain information and records relating to the use of the Cars by Lessee and other railroads in accordance with the Interchange Rules of the American Association of Railroads (AAR), including car hire data, mileage charges, per diem revenues, incentive per diem revenue, and other rental charges or other sums (including insurance benefits or lessee or railroad indemnity payments payable in connection with any damage to or loss or destruction of a Car) with respect to the Cars, payable to the lessor under the Lease and use its best efforts on behalf of Owner to collect all such rental charges and other sums which become due and payable to the Owner, and promptly upon receipt thereof to remit the same to the Owner.

(d) Inspect the Cars and arrange for the maintenance and servicing of the Cars, and for all repairs, alterations, modifications or replacements of parts required to keep and maintain the Cars in good working order in accordance with the Interchange Rules of the AAR and other governmental and regulatory requirements applicable to the Cars, and preventative maintenance necessary to keep and maintain the Cars in good working order and

repair; provided that Rex shall not approve any alterations or modifications of the Cars, which in any case would exceed \$250 per Car, without the prior written consent of Owner.

(e) Use its best efforts to place in Owner's name such insurance as shall be reasonably available to protect the interest of Owner in the Cars, including, without limitation, insurance against (i) personal liability, including property damage and personal injury in the face amount of \$10,000,000 and (ii) loss of or damage to the Cars on or off lines, with a \$500 deductible; provided, however, that if REX effects such insurance under a blanket insurance policy, or insurance policy covering Owner's Cars and other cars of other owners, such insurance need not be placed in Owner's name so long as Owner is named as an insured; and, provided, further, however, that, if REX determines that the cost of insurance described above is unreasonably high, REX shall so notify Owner and shall use its best efforts to obtain such insurance as is available and Owner directs; and provided further that, if REX determines that such insurance cannot be obtained, REX shall so notify Owner.

(f) Promptly upon any determination by Rex that there has accrued a breach of any warranty by the Builder



or any other manufacturer, supplier, subcontractor or other party, in respect of the Cars or any parts or components thereof, to give Owner notice in writing of such breach or alleged breach, and to assist the Owner in the institution and prosecution of any claim, demand or action arising out of such breach or alleged breach of warranty against the Builder or other party, all as reasonably requested by, and at the expense of the Owner.

(g) Furnish factual information with respect to all Federal, State, Municipal, Canadian, Provincial and Mexican taxes, governmental charges, assessments or levies, including ad valorem taxes, imposed upon or against the Cars or any lease thereof, other than taxes imposed upon Owner's income or taxes payable by the lessee under any lease of the Cars, and maintain records of such taxes, charges, assessments and levies, and all tax returns filed and payments made with respect thereto, and, at Owner's request assist Owner at Owner's expense, in the defense against or contest of, in Owner's name or otherwise, any such taxes, charges, assessments or levies deemed by Owner to be improper.

(h) Monitor and record, and, in the case of Cars used on or off the line of a railroad lessee of the Cars, cause such lessee to monitor and record, movement of the

Cars, and maintain, or cause such lessee to maintain, complete and accurate records of all transactions relating to the Cars.

(i) To give to Owner copies of any notice which REX shall give or receive under the Lease: except that REX shall not give Owner routine car hire reports and similar reports containing accounting data or information as to the movement of the Cars, except to the extent otherwise required by Section 9 hereof.

(j) Perform for Owner such other services incidental to the foregoing as may from time to time be reasonably necessary in connection with the leasing and operation of the Cars.

4. Authority, and Limitations on Authority, of REX.

(a) It is expressly understood that any actions taken by REX on behalf of Owner in accordance herewith will be taken as agent for Owner, either naming such Owner or naming REX as agent for Owner. REX will indemnify Owner and hold Owner harmless from any and all claims, actions, damages, expenses (including reasonable attorneys' fees), losses or liabilities incurred by or asserted against Owner as a result of any action taken by REX in excess of its authority granted hereby. The parties hereto expressly recognize and acknowledge that this Agreement is not in-

tended to create a partnership, joint venture or other entity between Owner and REX. REX shall not take any action or engage in any course of dealing which would suggest or create an inference that there is any such understanding or agreement between Owner and REX; and REX shall use its best efforts to assure that no silence or failure to act on its part creates or sustains any such suggestion or inference.

(b) REX shall not have any authority to (i) offer for sale or lease or contract or agree to sell or lease any Cars except as Owner may from time to time hereafter expressly request or direct; or (ii) without the prior written consent of Owner, extend, or permit the automatic extension of, the terms of the Lease or modify, amend or supplement the Lease, or give any consent, waiver, authorization or approval thereunder or unless otherwise directed by Owner terminate the Lease or withdraw any Cars from leasing under the Lease.

5. Compensation.

As compensation to REX for the performance of services hereunder, Owner shall pay quarterly to REX a management fee equal to \$30 per Car per month commencing with the day on which such Car becomes subject to this Agreement and, except as otherwise provided herein, end-

ing on the day fifteen years after the day on which such Car became subject to this Agreement. Such fee shall be payable quarterly in arrears out of the rental payments received in respect of the Cars during the preceding quarter, and shall be prorated on a daily basis whenever the calculation of such fee is based on a partial month or a rate in effect for only part of a month. If the term of this Agreement terminates with respect to any Car, the management fee with respect to such Car shall cease to accrue as of the date of such termination.

6. Payment of Costs and Expenses; Indemnification.

(a) Payment for Maintenance and Repair. The cost of maintenance, service and repair of damage to any Car (other than costs which REX determines constitute its costs attributable to performing its management and administrative services under this Agreement), is the sole responsibility of Owner. Any payments, including, without limitation, insurance benefits or railroad or lessee indemnity payments, received to cover the damage to such Car shall be solely for the account and benefit of Owner. Owner shall pay to REX within ten (10) days of receipt by Owner of an invoice therefor, the invoiced cost of the maintenance, service or repairs which are the responsibility of Owner or, at Owner's election, apply or cause Rex to apply to pay such cost any

insurance or indemnity payments which may be received by REX or Owner (as insured or co-insured or additional insured) to cover the cost of any damage which necessitates any such repairs. Nothing contained herein shall impose on Rex any liability or obligation to Owner or any third party to pay or advance the cost of such maintenance, service or repairs which are the responsibility of Owner.

(b) Payments for Insurance. The cost of insurance is the sole responsibility of Owner. Within ten (10) days after receipt of notice and demand therefor from Rex, Owner shall pay to Rex the cost of any such insurance placed or purchased by Owner through Rex.

(c) Payments for Special Improvements. The cost of any alterations, modifications, improvements or additions which are required by the American Association of Railroads, the Interstate Commerce Commission or the Department of Transportation or other regulatory agency or are otherwise required to comply with applicable laws, regulations or requirements and which, if required under Section 3(d) hereof, are consented to by Owner, are the sole responsibility of Owner. Rex shall have the right to require Owner to pay the cost thereof, within ten (10) days after submission by Rex to owner of the invoice therefor. Nothing contained herein shall impose on Rex any liability or obligation to

Owner or any third party to pay or advance the cost of any such required alterations, modifications, improvements or additions.

(d) Payments of Uninsured Losses. Losses from third party liability for bodily injury or property damage caused by any Car which are not (i) covered by insurance including the amount of the deductible(s) or (ii) are in excess of the amount of the coverage provided under any liability insurance for bodily injury or property damage on the Cars, are the sole responsibility of Owner. Within ten (10) days of receipt of notice and demand therefor, Owner shall pay to Rex the amount of such liability. Nothing contained herein shall impose on Rex any liability or obligation to Owner or any third party to pay or advance the cost of any such liability.

(e) Receipts and Payments as Acts of Owner; Obligations of Owner. In collecting rentals and other sums and in carrying out its other duties hereunder, REX is acting solely as agent for Owner and any and all sums received by REX in such capacity shall be promptly remitted to Owner. The provisions of Sections 3, 4 and 6 of this Agreement shall not be understood to diminish or modify the rights of Owner to receive rentals and other sums due or which become due to it under the Lease or any other lease or the sale or other use or disposition of the Cars.

(f) Indemnification. Owner shall defend (if such defense is tendered to Owner), indemnify and hold REX harmless from and against any and all claims, actions, damages, expenses (including reasonable attorneys' fees), losses or liabilities incurred by or asserted against REX as a result of the use, operation, possession, control, maintenance, repair or storage of the Cars; provided, however, that Owner shall not defend, indemnify or hold REX harmless from and against, and REX shall not be exculpated from, any claim, action, damage, expense, loss or liability directly or indirectly caused by or arising from its negligence, bad faith or misconduct of REX.

7. Termination.

(a) If REX shall have defaulted in the due performance and observance of any term, covenant or condition to be performed or observed by REX under this Agreement, and such default shall have continued for a period of 15 days after Owner shall have notified REX in writing thereof and demanded that the same be cured or if Lessee shall have defaulted under the Lease and by reason thereof Owner shall be exercising its remedies under Section 11 of the Lease, then Owner shall have the right immediately upon the delivery to REX of Owner's election so to do, to terminate this Agreement, whereupon this Agreement shall termi-

nate and be of no further force or effect, except with respect to obligations which have arisen by reason of events occurring prior to such termination.

(b) In addition to its right to terminate under paragraph (a), Owner may at its option terminate this Agreement and Rex's agency hereunder upon delivery to Rex of 60 days' prior written notice of such termination. On the date fixed for such termination, Owner shall pay to Rex the applicable termination fee set forth in Schedule II, if any, and this Agreement shall terminate and be of no further force or effect, except with respect to obligations which have arisen by reason of events occurring prior to such termination.

(c) Upon any termination pursuant to this Section 7, REX shall promptly remit to Owner any rentals or other sums to which Owner is entitled which are then or thereafter in REX's possession and turn over to Owner all books, records and accounts maintained by REX in the performance of its services hereunder as may be reasonably necessary for Owner to manage and administer, or cause to be managed and administered on its behalf, the Cars. Termination hereunder shall not affect Owner's or REX's rights and obligations under any other agreement.



8. Termination of the Lease.

The Cars will be leased under the Lease, which may be terminated as to one or more such Cars upon the terms and conditions set forth in the Lease. REX shall notify Owner of the occurrence of an event which permits such termination of the Lease with respect to one or more of the Cars promptly but no later than three days after receipt of notice of such occurrence and shall advise Owner of its recommendations as to the exercise of such right of termination with respect to the Cars. REX shall exercise due diligence in keeping itself apprised of the occurrence of such events. Within 20 days after the giving of such notice by REX, Owner shall notify REX of its determination whether or not to terminate the Lease with respect to one or more Cars, and REX, if Owner has elected to so terminate the Lease and so requests shall, at Owner's expense, assist Owner to effect such termination under the Lease.

9. Reports; Examination of REX's Books and Records.

(a) Not later than 40 days after the end of each calendar quarter during the term of this Agreement, commencing with the quarter ending June 30, 1979, REX shall furnish to Owner a report showing all rentals and other sums due under the Lease and the amount of all collections thereof, any delinquencies therein and such other information relating to the Cars as Owner may reasonably request.

(b) Owner shall have the right to have an agent or employee of its choice examine and copy, at its sole expense and during normal business hours, the books and records of REX relating to the transactions contemplated hereby.

10. Use of Cars.

REX shall use its best efforts to cause any railroad lessee of the Cars under a lease (including the Lease) pursuant to which the Cars are expected to be used off the line of such lessee to prevent the Cars from being used predominantly outside the United States within the meaning of Section 48(a)(2)(A) of the Internal Revenue Code, as amended, or any successor provision thereof, and the regulations thereunder. REX shall cause each lease for the Cars entered into, or arrangements for the use of the Cars made by, a railroad which expects to use the Cars on its own line or a person which is not a railroad to contain provisions regarding the identity of the lessees or sublessees of the Cars and the locations of use of the Cars so as to avoid recapture of any allowable investment tax credit claimed with respect to the Cars.

11. Notices.

Any notice required or permitted hereunder shall be in writing and shall be valid and sufficient if delivered

personally or dispatched in any post office of the United States by registered or certified mail, postage prepaid, addressed to the other party as follows,

If to REX: Rex Railways, Inc.  
616 Palisade Avenue  
Englewood Cliffs, New Jersey 07632  
Attn: Robert W. Gruber

If to Owner: McDonnell Douglas Finance Corporation  
3855 Lakeview Boulevard  
Long Beach, California 90846

Attn: Commercial & Industrial  
Finance Department

and any party may change such address by notice given to the other party in the manner set forth above.

12. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by and construed under the laws of the State of New Jersey.

(b) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(c) Headings. Titles and headings of the Sections and Subsections of this Agreement are for the convenience of reference only and do not form a part of this Agreement and shall not in any way affect the interpretation hereof.

(d) Amendment. No explanation or information by either of the parties hereto shall alter or affect the meaning

or interpretation of this Agreement and no modification or amendment to this Agreement shall be valid unless in writing and executed by both parties hereto.

(e) Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto; provided, however, that no assignment hereof by Owner or transfer of any of the Owner's rights hereunder, whether by operation of law or otherwise, shall be valid and effective as against REX without the prior written consent of REX and, provided, further, that no delegation or assignment by REX of its duties hereunder (otherwise than by assignment of this Agreement in connection with a merger of REX or a sale or lease by REX of all or substantially all of its assets), whether by operation of law or otherwise, shall be valid and effective as against Owner without the prior written consent of Owner.

(f) Force Majeure. Neither party hereto shall be deemed to be in breach or in violation of this Agreement if either is prevented from performing any of its obligations hereunder for any reason beyond its reasonable control including and without limitation acts of God, riots, strikes, fires, storms, public disturbances, or any regulation of any federal, state or local government or any agency thereof.

(g) Other Cars Owned or Managed by REX. It is expressly understood and agreed that nothing herein contained shall be construed to prevent or prohibit REX from providing the same or similar services to any person or organization not a party to this Agreement. In particular, REX shall be entitled to own and operate for its own account identical cars not managed under this Agreement and/or to manage such cars under a similar management agreement with another owner.

(h) Waiver. The waiver of any breach of any term or condition hereof shall not be deemed a waiver of any other or subsequent breach, whether of like or different nature.

(i) Severability. If any term or provision of this Agreement or the performance thereof shall to any extent be invalid or unenforceable, such invalidity or unenforceability shall not affect or render invalid or unenforceable any other provision of this Agreement, and this Agreement shall be valid and enforced to the fullest extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have executed

this Agreement as of the day and year first set forth above.

REX RAILWAYS, INC.

By Robert W. Gruber  
Robert W. Gruber, President

MCDONNELL DOUGLAS FINANCE CORPORATION

By Jerome Butkewitz JRM

SCHEDULE I

(Reference: first whereas clause)

50 XM boxcars (1) manufactured by Pullman-Standard division of Pullman Incorporated under Lot and Specification No. 3809, (2) leased or to be leased to Lamoille Valley Railroad Company pursuant to a lease agreement dated as of October 12, 1978 and (3) bearing or to bear designations running from LVRC 4000 through and including LVRC 4049.

## SCHEDULE II

### Termination Fees Under Section 7(b) of the Agreement

1. If termination shall occur during the period ending April 6, 1985, the applicable termination fee shall be an amount equal to \$1,800 times the number of Cars which are then subject to this Agreement.

2. If termination shall occur during the year ending April 6, 1986, the applicable termination fee shall be an amount equal to \$1,080 times the number of Cars which are then subject to this Agreement.

3. If termination shall occur during the year ending April 6, 1987, the applicable termination fee shall be an amount equal to \$720 times the number of Cars which are then subject to this Agreement.

4. If termination shall occur during the year ending April 6, 1988, the applicable termination fee shall be an amount equal to \$360 times the number of Cars which are then subject to this Agreement.

5. If termination shall occur at any time after April 6, 1988, there shall be no termination fee.



STATE OF NEW YORK   )  
                                  ) ss.:  
COUNTY OF NEW YORK )

On this 6th day of April, 1979, before me personally appeared ROBERT W. GRUBER, to me personally known, who being by me duly sworn, says he is the President of Rex Railways, Inc., that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Seal]

Martha J. Flanders  
(Title of Officer)

My commission expires \_\_\_\_\_  
MARTHA J. FLANDERS  
Notary Public, State of New York  
No. 31-4678625  
Qualified in New York County  
Commission Expires March 30, 1980

STATE OF NEW YORK   )  
                                  ) ss.:  
COUNTY OF NEW YORK )

On this 6th day of April, 1979, before me personally appeared JEROME BUTKOW, to me personally known, who being by me duly sworn, says he is the authorized agent of McDonnell Douglas Finance Corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Seal]

Martha J. Flanders  
(Title of Officer)

My commission expires \_\_\_\_\_  
MARTHA J. FLANDERS  
Notary Public, State of New York  
No. 31-4678625  
Qualified in New York County  
Commission Expires March 30, 1980